

REMARKS

Applicants appreciate the courtesies extended by Examiner Deak in an interview on December 13, 2004. This Amendment, incorporating the claim amendments discussed in the interview, is filed along with a Request for Continued Examination (RCE) to place the application in condition for allowance.

In the Final Office Action mailed on November 2, 2004, the Examiner rejected claims 33-48 under 35 U.S.C. § 101 due to the claiming of a patient cardiovascular system in claim 33, which the Examiner alleged rendered the subject matter non-statutory, and rejected claims 22-48 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,663,585 to Ender ("Ender") in view of U.S. Patent No. 3,867,688 to Koski ("Koski"). While Applicants respectfully traverse these rejections, the amended claims are consistent with the interview to expedite prosecution of the application.

Claims 22-48 are pending in this application. By this Amendment, claims 22 and 33 are amended. No new matter is added in this Amendment.

During the interview, claim amendments to claims 22 and 33 were discussed. Examiner Deak indicated that certain claim amendments discussed would likely render allowable claims 22, 33, and their respective dependent claims.

As discussed in the interview, claim 22 is amended to positively recite the short circuit between the arterial and venous branches. The recitation in claim 22 relating to this short circuit now reads "providing a conductive connection between the arterial branch and the venous branch, said conductive connection having first and second connection locations, wherein said first connection location is located upstream of the blood treatment device and said second connection location is located downstream of

said blood treatment device;” (emphasis added). In the interview, it was discussed that this feature, together with the other elements of claim 22, were not taught or suggested by the art of record. Indeed, neither Ender, nor Koski, teaches or suggests a method of monitoring a cardiovascular access during an extracorporeal blood treatment providing a conductive connection as recited in amended claim 22. Accordingly, Applicants respectfully ask the Examiner to withdraw the 35 U.S.C. § 103(a) rejection of claim 22, and to pass claim 22 to allowance.

Claims 23-32 depend from claim 22 and are allowable as being dependent upon an allowable base claim.

Claim 33 was rejected on § 101 grounds. Specifically, the Examiner questioned the permissibility of the reference to “a patient cardiovascular system” in the claims. While Applicants respectfully disagree with the rejection, to obviate the rejection and to expedite prosecution, the reference to “a patient cardiovascular system” is deleted from claim 33, as the suggested by the Examiner.

Applicants respectfully ask the Examiner to withdraw the 35 U.S.C. § 103(a) rejection of claim 33, and to pass claim 33 to allowance. While of different scope, claim 33 recites limitations similar to those contained in amended claim 22. For example, claim 33 recites “a conductive connection arranged between a first passage point of an arterial branch of an extracorporeal blood circuit and a second passage point of a venous branch of an extracorporeal blood circuit.” As discussed in the interview, this structure, in combination with other recitations, is neither taught nor suggested by the references of record.

For example, in addition to the recited conductive connection, the unique combination of claim 33 also includes "a detector circuit configured to detect a value of a quantity corresponding to an electric current along at least one section of the extracorporeal circuit," wherein at least one section of the circuit has "a portion of the venous branch between the second passage point and the venous needle, a portion of the arterial branch between the arterial needle and the first passage point, and the conductive connection." Accordingly, neither Ender, nor Koski, teaches or suggests the unique combination of claim 33.

For at least these reasons, Applicants respectfully request allowance of claim 33, together with allowance of claims 34-48, which depend from claim 33 and are allowable as being dependent upon an allowable base claim.

In view of the above amendments, Applicants assert that the entire application is now in condition for allowance. A timely notice of allowance is earnestly requested.

The Examiner is invited to telephone the undersigned at (202) 408-4387, should the Examiner foresee any impediment to allowance.


The Office Action may contain statements or characterizations with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: February 2, 2005

By: 

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